

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

DEC 20 2007

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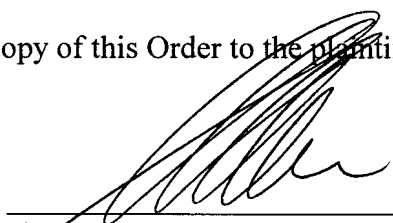
ROBERT STEVEN JOYCE,)	Civil Action No. 7:07cv00339
Plaintiff,)	
)	
v.)	<u>FINAL ORDER ADOPTING REPORT</u>
)	<u>AND RECOMMENDATION</u>
)	
CAPT. NELSON THOMAS, <u>et al.</u> ,)	By: Samuel G. Wilson
Defendants.)	United States District Judge

Robert Steven Joyce brings this suit pursuant to 42 U.S.C. § 1983, claiming that the defendants used excessive force against him, violated his First Amendment right to free speech, and failed to provide him with adequate medical treatment.¹ Defendant Deatherage filed a motion for summary judgment, and the court referred the matter to United States Magistrate Judge Michael F. Urbanski for a report and recommendation, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge subsequently filed a report, finding that Joyce failed to exhaust his administrative remedies and recommending that the court grant the defendant's motion for summary judgment. Neither party has filed objections. Having reviewed the Magistrate Judge's Report and Recommendation and pertinent portions of the record, the court agrees with the Magistrate Judge's recommendation.

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that the Magistrate Judge's Report and Recommendation is **ADOPTED** in its entirety; the court **DISMISSES** Joyce's claims against defendant Deatherage; and this matter is **STRICKEN** from the active docket of the court.

The Clerk of the Court is directed to send a certified copy of this Order to the plaintiff.

ENTER: This 20th day of December, 2007.



United States District Judge

¹ By Order entered August 1, 2007, the court dismissed medical treatment claim and all claims against defendants Captain Nelson and Sgt. Taylor. Accordingly, only Joyce's excessive force and free speech claims against defendant Sgt. Deatherage went forward.